

Notice of Allowability

Application No.

10/606,262

Examiner

John K. Fristoe Jr.

Applicant(s)

BECK ET AL.

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 9/13/2004.
2. ☒ The allowed claim(s) is/are 1-11, 16-35, 92-96 and 104-147.
3. ☒ The drawings filed on 25 June 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 9/13/04 | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Randall Bateman on 10/12/2004.

The application has been amended as follows:

IN THE CLAIMS:

In claim 1, line 14, "." has been replaced with --the optical pressure sensor comprising an optical emitter and an optical detector disposed on opposite sides of a section of the infusion set.--.

In claim 10, line 2, "comprises an optical emitter and an optical detector disposed adjacent the central pump engaging portion of the feeding set for optically monitoring pressure within the infusion set." has been replaced with --is configured to monitor the change in size of the infusion set tubing due to changes in pressure within the tubing.--.

In claim 92, line 5, --, at least one protrusion configured to inhibit movement of the monitoring portion-- has been added after "portion".

In claim 111, line 2, --is-- has been added after "emitter".

In claim 111, line 3, "an optical detector" has been replaced with --wherein the optical detector is--.

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This application is in condition for allowance except for the presence of claims 12-15, 91, and 97-103 to inventions non-elected without traverse. Accordingly, claims 12-15, 91, and 97-103 been cancelled.

The above amendments to the claims have been made to overcome a potential prior art rejection.

Allowable Subject Matter

2. Claims 1-11, 16-35, 92-96, and 104-147 are allowed.
3. The following is an examiner's statement of reasons for allowance: Regarding claims 1-11, 110-116, and 146, the prior art of record does not disclose an infusion set having an optical pressure sensor comprising an optical detector and an optical emitter disposed on opposite sides of the infusion set. Regarding claims 16-35, 92-96, 104-108, 117-143, and 147, the prior art of record does not disclose an infusion set having protrusions or flanges disposed on the infusion set tubing for inhibiting movement of at least a portion of the infusion set. Regarding claims 109, 144, and 145, the prior art of record does not disclose an infusion set comprising an infusion set having a sample cell comprising an optical emitter and an optical detector wherein the optical detector receives a first, a second, and a third amount of light.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

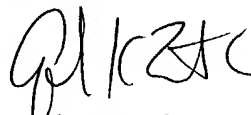
U.S. Pat. No. 6,110,153 (Davis et al.) discloses an optical pressure sensor comprising an optical detector and an optical emitter disposed on the same side of the infusion set tubing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (703) 308-1437. The examiner can normally be reached on Monday-Friday, 7: 00 a.m-4: 30 p.m.

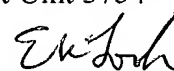
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Louis G. Mancene can be reached on (703) 308-2696. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JKF



John K. Fristoe Jr.
Examiner
Art Unit 3754



EDWARD K. LOOK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

10/13/04